

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-091664

03/15/2004

HONORABLE MARK R. SANTANA
FOR HONORABLE BETHANY G. HICKS

CLERK OF THE COURT
C. Kelly
Deputy

FILED: 03/17/2004

PARADISE MOUNTAIN SHADOWS
HOMEOWNERS AS

CHARLES E MAXWELL

v.

GALLERIA HOMES LLC, et al.

BRADLEY D WEECH

C ROBERT COLLINS

MINUTE ENTRY

The court has reviewed defendant Galleria Homes, Inc.'s (Galleria) motion to compel discovery and disclosure, the response and reply. The court has also considered plaintiff Paradise Mountain Shadows Homeowners Association's (Association) motion for protective order and motion for sanctions, the response and reply.

The court has considered oral argument of counsel on these motions.

Finally, the court has reviewed the motion for approval of representation filed by Collins & Collins in connection with the representation of Ms. Tammi Lfteroff.

Preliminarily, the court notes that there are a great many issues relating to discovery as well as the ethical conduct of counsel in the discovery motions. This order will not address many of these issues. This order will only address those issues that relate to the April 6, 2004 evidentiary hearing or other issues that must be resolved, at least on a temporary basis, before the April 6, 2003 hearing. All other discovery and related matters will be deferred until the court has determined whether the alleged settlement agreement is enforceable and the plaintiff's pending motion for summary judgment.

IT IS ORDERED:

- (1) Galleria's motion to compel discovery and disclosure is granted in part;

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- (2) Galleria is permitted to take the depositions of the following individuals: Denny Mullins, Mark Haverland, Jim Bahl, Virginia Morgan and Tami Lefteroff. Those depositions are strictly limited to the following issues: (a) Any evidence that relates to the authority of Haverland and Mullins to sign the alleged settlement agreement; (b) Any evidence relating to what occurred at the October 9, 2003 Association Board meeting;
- (3) Galleria is permitted to take the deposition of Lorraine McCarthy to determine whether she was a member and/or officer of the Association Board of Directors from January 1, 2003 to October 9, 2003. If the deposition testimony indicates that Ms. McCarthy was an member/and or officer of the Association's Board of Directors during that time period, Galleria may then depose Ms. McCarthy with respect to the issues identified in (2)(a) and (b) above;
- (4) The Association and Galleria are directed to provide each other with all relevant documents that relate to the issues set forth in sections (2) (a) and (b) forty eight hours before the depositions are to be commenced. Documents that are subject to claims of privilege are excluded from this order, but counsel are warned that if documents that withheld on the basis of a claimed privilege, and the court later determines that the asserted privilege did not exist or the claim was not made in good faith, the court will impose sanctions;
- (5) In order to reduce potentially unnecessary litigation expenses, the Association's motion for protective order is granted on a temporary basis;
- (6) Except for purposes of accomplishing the deposition permitted in (2), defendants shall not attempt to depose, meet, interview or have any communication with Tami Lefteroff or any counsel representing her until further order of this court; the court will make a final decision on the Association's motions for protective order and sanctions after the court has determined whether the October 8, 2003 settlement agreement is enforceable and resolved the Association's motion for summary judgment;
- (7) Collins & Collins are approved to represent Tami Lefteroff in this litigation for purposes of protecting her personal interest and rights;
- (8) Collins & Collins are not approved to represent Tami Lefteroff with respect to her duties and obligations as a member of the board of directors of the Association; Charles E. Maxwell continues to represent the Association, its board of directors and Ms. Lefteroff in her capacity as a director
- (9) **Resetting this matter to start on April 6, 2004 at begin at 9:30 a.m. and to conclude at 4:30 p.m. Each side will have 2 hours and 15 minutes to present its case.**